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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,073	09/13/2003	Tamilla R. Smith	CIL1736	7080
30245	7590	07/28/2005	EXAMINER	
ANTHONY EDW. J CAMPBELL PO BOX 160370 AUSTIN, TX 78716			DONNELLY, JEROME W	
		ART UNIT	PAPER NUMBER	
		3764		
DATE MAILED: 07/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/661,073	SMITH, TAMILLA R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jerome W. Donnelly	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to. .

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

JEROME W. DONNELLY  
PRIMARY EXAMINER

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-433)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hebert. Herbert discloses a device comprising; first and second hoop members pads attached/handles attached to each hoop. The handles/pads being freely fitted and thereby rotatable on said hoop members.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-8, 10 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hebert.

The examiner notes that it is well known in the art of manufacturing handles and pad member to manufacturing handles and pad member to manufacture both from a variety of materials such as metal wood leather and plastics. The considers these selection of materials as obvious unless the applicant can convincingly prove the criticality of using any of these specific materials within the claimed device

5. Claims 1 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuhl.

Kuhl teaches providing a device which is formed in a fig. 8 (see abstract) having a plurality of handles/pads (12) and using the device as claimed in claim 20, as broadly as claimed 20 is claimed.

6. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhl.

The examiner notes that it is known to manufacture jogging exercise equipment wherein it is fluorescent and reflective. Note jogging shoes which include reflective material and are often manufactured in fluorescent colors.

In regard to claim 11 the examiner note that stretchable fabric would be an obvious and common substitute for elastic cords, so long as it is elongated and stretchable.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Darkwah in view of Quinones.

The examiners notes that it would have been obvious to make the handle means of Darkwah weighted of at least one pound in view of the weighted handles of the jogging device of Quinones.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the overall device of Schenk, Santighian and Farison.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

JEROME W. DONNELLY  
PRIMARY EXAMINER

